

MEMORANDUM OF LAW

DATE: March 3, 1989

TO: Maureen Stapleton, Deputy City Manager

FROM: City Attorney

SUBJECT: Use of Proposition A funds for cover on I-15

In your memorandum of January 23, 1989, you asked if funds generated by Proposition A could be used to pay for the proposed additional block of cover on SR 15 in the Mid-City area.

The proposed project to cover an additional block of the area where the excavation for SR 15 is being dug was proposed as an additional mitigating measure by the City Council. The original Caltrans EIR found that one block of cover would be sufficient, however, the City's environmental analysis recommended that two blocks would be required to reduce the project's impact to an acceptable level. Caltrans did not object to the City's determination so long as the City paid for it. (Caltrans letter dated May 20, 1985.)

Proposition A was passed by the voters of San Diego County in November of 1987. It imposed a one-half cent sales tax for specified transportation purposes. (San Diego Transportation Improvement Plan Ordinance, Section 4.) ("The Hereinafter Ordinance.") The ordinance allows funds to be spent for four (4) specific purposes; one million dollars per year for bicycle facilities, one-third of the remainder for transit projects, one-third of the remainder for local streets and roads, one-third the remainder for highway projects.

The highway projects contemplated for Proposition A funds were described in Table 2 of Proposition A, described on a map and summarized in the ballot argument. There is also a project reserve fund. None of these proposals lists the SR 15 project as one of the projects to be funded. The project reserve fund uses are "exclusively for...the proposed major projects." This funding category is inappropriate for two reasons: The route is not an eligible Proposition A route and the impetus for the cover project is not an Interstate Highway need.

The local street and road projects by definition exclude state highway projects (Ordinance, Section 19, paragraphs E & F). Since the cover is not a local street and road project, the expenditure of Proposition A funds is not appropriate. There is some additional language in Proposition A, paragraph E referring to the California Constitution, article XIX, section 1(a). That

language would allow the widening of the bridges over SR 15 since the bridges are part of local roads.

Since the proposed cover does not fall within any of the areas qualifying for Proposition A funds, it would be inappropriate to request funds for it. It would appear proper to list the proposed bridge widenings as local street and road projects for submission to the San Diego County Regional Transportation Committee as City sponsored projects.

If you have any questions please give me a call.

JOHN W. WITT, City Attorney

By

John K. Riess

Deputy City Attorney

JKR:sko:222(x043.2)

Attachment

ML-89-26